

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 362 - HB 412**

February 4, 2023

**SUMMARY OF BILL:** Authorizes records related to a motor vehicle operator's refusal to submit to a test to determine the person's blood alcohol or drug content level (implied consent) to be eligible for expunction in the same manner as other eligible misdemeanor offenses under existing law.

**FISCAL IMPACT:**

**Increase Local Revenue – \$22,000/FY23-24 and Subsequent Years/Permissive**

**Other Fiscal Impact – Passage of the proposed legislation could jeopardize Federal Highway Administration funds to the Tennessee Department of Transportation's Highway Fund.**

Assumptions:

- Pursuant to Tenn. Code Ann. § 8-21-401(g)(5), a court clerk may charge a fee up to \$100 to file petitions for expunctions.
- Based on information provided by the Administrative Office of the Courts, the average annual number of implied consent convictions statewide over the last five years is 440. This is assumed to remain constant.
- It is not known how many implied consent offenders may choose to take advantage of their right to petition for an expunction. For the purposes of this analysis, it is assumed to be 50 percent.
- The recurring increase in local revenue related to expunction petitions is estimated to be \$22,000 (440 offenders x 50% x \$100) in FY23-24 and subsequent years.
- It is assumed the increase in revenue from petition fees is sufficient for local courts to accommodate any increase in workload related to processing petitions.
- If passed as written, the proposed legislation could be in violation of federal regulations governing commercial driver licenses (CDLs).
- Pursuant to 49 CFR § 383.51, a CDL holder is disqualified from operating a motor vehicle for one year for a first violation of implied consent, and three years if the offense occurred while operating a commercial motor vehicle transporting hazardous materials. A CDL holder is disqualified for life for a second violation of implied consent.
- Pursuant to 49 CFR § 384.226, 'the state must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CLP or

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CDL holder's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the CDLIS driver record, whether the driver was convicted for an offense committed in the state where the driver is licensed or another state.'

- Pursuant to 49 CFR § 384.401, an amount up to four percent of Federal-aid highway funds shall be withheld from a state on the first day of the fiscal year following such state's first year of noncompliance. An amount up to eight percent of the Federal-aid highway funds shall be withheld from a state on the first day of the fiscal year following such state's second or subsequent year(s) of noncompliance.
- Based on information provided by the Tennessee Department of Transportation (TDOT), the total amount of Federal Highway Administration (FHWA) funds to be received in FY23-24 is estimated to be \$1,284,549,000. It is assumed that four percent, or \$51,381,960 ( $\$1,284,549,000 \times 4\%$ ) could be withheld in FY23-24.
- The total amount of FHWA funds received by TDOT is expected to increase in FY24-25 to \$1,310,235,000. It is assumed that eight percent, or \$104,818,800 ( $\$1,310,235,000 \times 8\%$ ) could be withheld in FY24-25 and subsequent years.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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